



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON, D.C. 20370-5100

SMC  
Docket No: 07073-00  
13 December 2000

SSG [REDACTED] USMC  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear Staff Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested that your fitness report for 31 March to 28 May 1999 be changed to "not observed."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 13 December 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 17 October 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

7073-00

IN REPLY REFER TO:  
1610  
MMER/PERB  
17 OCT 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF  
SERGEANT [REDACTED] USMC

Ref: (a) SSgt [REDACTED] DD Form 149 of 8 May 00  
(b) MCO P1610.7E

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 11 October 2000 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 990331 to 990528 (FD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that rather than the recorded compromise of his honor and integrity during a written test/graded event, he simply looked at the test paper of a fellow student to compare answers. He argues that this constitutes a factual difference between actually cheating and attempting to merely compare answers. To support his appeal, the petitioner furnishes his own statement and a copy of the challenged report.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. In his rebuttal to the fitness report, the petitioner readily admitted to attempting to look at and compare his answers with those of another Marine. His inference of "no harm, no foul" because the answers of the other Marine were covered is not germane. The uncontroverted matter of fact is that the petitioner attempted to view the test answers of another student. No matter what argument is presented, such an act lacks integrity.

b. Regardless of how this Board views the situation and resulting actions, the fact remains that the petitioner was disenrolled from a formal course of instruction. That fact was correctly recorded via the performance evaluation system and constitutes neither an error nor an injustice.

2) PERB

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
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SERGEANT [REDACTED] USMC

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Staff Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]

Chairperson, Performance  
Evaluation Review Board  
Personnel Management Division  
Manpower and Reserve Affairs  
Department  
By direction of the Commandant  
of the Marine Corps